Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	**EB Docket No. 04-296**
Review of the Emergency	)	
Alert System	)	

COMMENTS OF
CHARLESTON COUNTY,
SOUTH CAROLINA
CONCERNING THE
FEDERAL COMMUNICATIONS COMMISSION'S
EXAMINATION OF THE
EMERGENCY ALERT SYSTEM

Charleston County, South Carolina submits these following comments in support of preserving local government participation (and where needed, regulation) in the Emergency Alert System (EAS) warning process. Though Charleston County submits these comments on its on behalf, Charleston County firmly believes that the same principles and underlying rationale supporting local government preservation are present in the vast majority of communities in this country.

Charleston County recognizes the vital and essential role of both the Federal and State government in the EAS warning process. However, since local governments affect the lives and routines of their citizens and residents on a daily, and often personal basis, it is imperative that local

governments maintain, retain, and preserve their ability, not only to have a significant role in the overall EAS warning/notification process, but also preserve their ability to dictate enhancements associated with the EAS warning process, in order for local government to take into account the unique topography, geography, and environment present in their varied communities. Without such an ability to address local EAS concerns at the local level, the Federal government (in particular the Federal Communications Commission (FCC)) will have the enormous and unwieldy task of developing and implementing hundreds, perhaps thousands of rules that will be applicable to local governments in countless situations.

The problem with such an approach however, is that it is highly doubtful that the FCC can create "one-size fits all" rules, when the communities of the United States are diverse, multi-faceted, and in some cases, complex in nature. For example, local governments situated on the southeast coast of the United States will almost assuredly have different concerns in a national disaster/emergency situation (that warrants an EAS warning/notification) than local governments situated high in the Rocky Mountains. Such differences could be as simple those caused by differences in road elevations, to differences as complex as air dispersion rates at higher/lower elevations during a chemical warfare scenario. While an initial EAS warning/notification will alert an individual of a national emergency/disaster, the vital supplemental information on actions or precautions to take, can most efficiently be given at the local level. Moreover, in many communities, certain conditions exist, known only by local residents, which will require further EAS distinctions. As noted above, the topography, geography, and environment will have a direct impact on the type of neighborhood EAS information that will be disseminated to the public.

In Charleston County comments, the County addresses two questions posed by the FCC—1) whether the local governments should maintain a role in the FCC EAS warning/notification process,

and 2) whether FCC EAS warnings/notifications should extend to other telecommunications technologies, such as the Internet, and cellular applications.

WHETHER UNIFORM NATIONAL GUIDELINES ARE PREFERRED OVER THE DISPARATE MANNER IN WHICH STATES AND LOCAL GOVERNMENTS IMPLEMENT EAS

It appears that the overall concept of EAS warning, as proposed by the FCC will include guidelines, rules, regulations, and standards in three (3) broad areas: 1) homeland security/national emergencies; 2) weather-related, product-related, or induced by a person incidents; and 3) incidents affecting the safety and/or health of an individual or small groups of individuals including hostage situations, kidnappings, and child abductions.

With regard to the first broad area, that of homeland security/national emergencies, such as chemical and/or biological warfare, or infiltration of weapons of mass destruction or other lethal agents through the nation's ports and/or airline terminals, the FCC should indeed promulgate uniform rules that concisely set forth the parameters of EAS warnings. However, even in homeland security situations, there is an element of local government prerogative. Yet, it is the national nature and scope of the potential disaster/emergency that supports the need for a national set of EAS rules, regulations, and standards. Therefore, in a true national, homeland security situation, the interests of the local government may be viewed as secondary, and do not require as much intrusion from the local government with respect to alerts, warning, and notifications. Still, the FCC should not promulgate rules, regulations, and standards that completely pre-empt local government participation and/or flexibility, because as noted above, all national disasters/emergencies filter to the local level, and retain a local element of administration.

With respect to the second broad area (incidents related to the weather, products, or created by persons), the scope of the potential disaster/emergency could have a national, regional, state, or local scope or focus. Weather-related disasters/emergencies certainly provide the opportunity for the FCC to adopt concise and uniform EAS notification rules, and regulations. But the fact of the matter is that weather-related disasters/emergencies ultimately are experienced on a regional and local level, and quite simply afford and demand local participation with respect to both EAS notification and enhancements. In the case of Charleston County, the lessons learned before, during, and after Hurricane Hugo, which brutalized the County over a decade ago, led the County to seek a better and more comprehensive method of informing the public during a weather-related event. In particular, the County recognized such a need because the length of the coastline, and the expanse of low residential density dictated that a more comprehensive method for providing regional notifications (even within the County) was warranted.

With respect to the third broad area (incidents involving individuals or groups in life-threatening situations, such as kidnappings, Code Amber, and hostage events), the scope of the potential disaster/emergency is almost always local in nature, and dictates a strong and noticeable local government presence in the method, means, and manner that information, via an EAS warning/notification, is disseminated to the public. Any adopted FCC rules, regulations, and standards in this area should further recognize the role of local law enforcement in terms of providing periodic follow-up Code Amber information.

Several years ago, Charleston County recognized that it had a pivotal role in the entire EAS warning/notification process. Charleston County adopted a cable television regulatory ordinance that included provisions associated with EAS. While the cable television regulatory ordinance acknowledged the primacy of the FCC EAS rules, regulations, and standards, the ordinance also

preserved the authority of the County to adopt local EAS enhancements, and supplemental notification standards. As a result, Charleston County engaged in extensive negotiations, in order to secure noticeable enhancements to the general EAS notification rules, and regulations, including requiring (under certain circumstances) periodic, all channel-blanking, and scrolling, designed to direct cable subscribers to the County's government channel dedicated to the dissemination of specific local information during a weather-related disaster/emergency. The enhancements above-mentioned are included in Charleston County's franchise agreements with two of its operators (KNOLOGY, and Comcast). Adelphia Cable is the County's third cable operator, and Charleston County expects the operator that acquires the Adelphia Cable system to agree to such EAS enhancements. Such enhancements will be especially needed and warranted because the Charleston County subscribers currently receiving Adelphia Cable are located thirty (30) to forty (40) miles away from the County's Administrative Center. Those subscribers share EAS concerns with other County residents, and have unique EAS concerns because of their remote location in the County.

The possibility that Charleston County's EAS enhancements could be somehow restricted and/or pre-empted by subsequently adopted EAS notification/warning rules, regulations, and guidelines is a possibility that Charleston County would prefer avoid at all costs. In its most fundamental concept, Charleston County views the ability to establish supplemental EAS rules, regulations, and guidelines as critical to accomplishing its duty of protecting the health, safety, and welfare of its residents.

If the FCC dictates that the local Emergency Operations Chief is not able to use the EAS notification/warning for the purpose of providing additional information, including information directed to specific locations and neighborhoods, then the ability of the local government is both compromised, and effectively negated. But that should not be the case, for the fact of the matter is

that the local government and the local Emergency Operations Chief can present a whole host of supplemental information that in a number of cases is both more timely, and more precise to the local evolution of the EAS emergency or disaster. In particular, the local government can provide 1) specific information on evacuation routes (in the case of hurricanes or snow emergencies); 2) specific locations of stores affected by product recalls, and businesses that could be carrying merchandise subject to recalls and/or warnings; 3) additional law enforcement bulletins and/or information during a Code Amber situation; and 4) constant and/or periodic updated information supplied by various local government officials (such as HAZMAT during a chemical or biological emergency, Water Utilities during a sewerage overflow, or drinking water infiltration event).

On this issue, Charleston County urges the FCC to adopt a model that is similar to its regulatory scheme adopted with respect to cable customer service standards. In that model, the FCC established benchmark, threshold standards that all cable operators would have to abide by, and comply with (if approved by local governments). More importantly, that model allowed local governments to exceed the FCC-mandated cable customer service standards. As a result, local governments retained the ability to address matters of consequence, concerning customer service, at a local level.

WHETHER FCC EAS WARNING/NOTIFICATION

STANDARDS SHOULD BE

APPLIED TO OTHER TECHNOLOGIES

INCLUDING THE INTERNET

AND CELLULAR

On the issue of whether any implemented FCC EAS warning/notification standards should be applied to other technologies including the Internet and cellular, Charleston County supports the effort if such can be accomplished in a manner that does not create additional financial burdens for local governments. In the Internet arena, it would appear that, at the very least, any FCC EAS warning/notification standards would require each Internet Service Provider (ISP) to provide an EAS "Hot-Button" on the home page of the ISP (wherein the Internet user can immediately access general information on EAS, as well as, specific information on impending and/or actual emergencies/disasters), and the ability to "freeze" an Internet user's "surfing" and inject a scrolled EAS warning, plus any additional and useful EAS information.

As for cellular technologies, an EAS warning/notification could be accomplished by either activation of a pre-recorded emergency message, or the injection of a scrolled emergency message. The pre-recorded message could direct the cellular user to dial a reserved number, in order to receive further information. A stylized pulsing, or vibration could be one means of providing a cellular user with instant notification that a scrolled text EAS warning/notification was imminent and forthcoming.

In either an Internet or cellular scenario, the ability of the local government to work closely with one or more ISPs to provide "one-click" access to the local government specific EAS web page/site should be preserved. Through such demonstrations projects, it is quite possible that a truly effective Internet model for the dissemination of EAS warnings/notifications, and supplemental information will be developed. Moreover, an Internet EAS application might be constructed/developed in such a manner that there will be seamless direction to all levels of governments, plus various associated agencies (such as Homeland Security, Federal/State Departments of Transportations, individual School Districts, and ham radio operators). The

possibilities are endless, and admittedly so might the cost. Key to any rules developed will be implementation of a cost/rewards review, so that the required provisions do not result in a broken *Field of Dreams*.

These comments are respectfully submitted on this 5th day of October, 2004 by Michael D. Hunt, telecommunications consultant and counsel for Charleston County, South Carolina.

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